

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

AUDIOVOX COMMUNICATIONS CORP.,

Plaintiff,

v.

PANTECH CO., LTD.,

Defendant.

Case No. 1:10-cv-04982(AKH)

AFFIDAVIT OF WAYNE M. HELGE FOR  
CERTIFICATE OF DEFAULT ON  
COUNTERCLAIM OF PANTECH, CO., LTD.

ECF CASE

**AFFIDAVT OF WAYNE M. HELGE IN SUPPORT OF DEFENDANT PANTECH CO.,  
LTD.'S REQUEST FOR CERTIFICATE OF DEFAULT ON COUNTERCLAIM**

I, Wayne M. Helge, being duly sworn, depose and say:

1. I am an attorney with H.C. Park & Associates, PLC in Vienna, Virginia, and counsel for Defendant Pantech Co., Ltd. ("Pantech"). I am admitted to practice in the commonwealth of Virginia, and this Court has granted my application for admission *pro hac vice* to this Court for this matter. I have personal knowledge of the facts set forth in this affidavit, and could and would competently testify thereto under oath if called as a witness.
2. I make the affidavit pursuant to Local Civil Rule 55.1 and 55.2(a) of the Civil Rules for the Southern District of New York, in support of Defendant Pantech's request for a certificate of default and application for the entry of a default judgment on Pantech's Counterclaim against Plaintiff Audiovox Communications Corporation ("Audiovox").
3. This is a Counterclaim to recover compensatory damages owed to Pantech by Plaintiff Audiovox for breach of contract. Pantech requests an accounting

of said compensatory damages through post-judgment discovery upon the Court's permission.

4. Jurisdiction of the subject matter of this action is based on diversity jurisdiction.
5. Plaintiff Audiovox Communications Corporation is not an infant, in the military, or an incompetent person.
6. Plaintiff Audiovox filed its Amended Complaint on May 20, 2011. Pantech waived service requirements, and filed its Answer, Affirmative Defenses, and Counterclaim on November 21, 2011 upon agreement of Pantech and Audiovox. On December 15, 2011, Audiovox moved to strike Pantech's Fourth, Fifth, and Sixth Affirmative Defenses. By stipulation and Court Order, Audiovox's time to respond to Pantech's Counterclaim was set to January 5, 2012.
7. On behalf of Defendant, I filed Pantech's Counterclaim for breach of contract against Plaintiff as part of Pantech's First Amended Answer, Affirmative Defenses, and Counterclaim. Pantech's First Amended Answer, Affirmative Defenses, and Counterclaim were filed as a matter of right under F.R.C.P. 15(a)(1)(B) using this Court's CM/ECF system as Document Number 34 on January 4, 2012.
8. Attached is a true and accurate copy of the Court's Notice of Electronic Filing for Document Number 34, which shows that Notice of Pantech's First Amended Answer, Affirmative Defenses, and Counterclaim was electronically served on counsel appearing in this action for Plaintiff Audiovox Communications Corporation who are registered to receive notice of service through CM/ECF.

9. Under F.R.C.P. 15(a)(3), Plaintiff's answer to Pantech's Counterclaim "must be made within the time remaining to respond to the original pleading or within 14 days after service of the amended pleading, whichever is later."
10. As of January 24, 2012, Audiovox has not answered Pantech's Counterclaim and the time for Audiovox to answer the Counterclaim has expired.

WHEREFORE, Defendant Pantech requests the entry of Default against Plaintiff Audiovox.

Dated this 24<sup>th</sup> day of January 2012, in Vienna, Virginia.

H.C. PARK & ASSOCIATES, PLC

By Wayne M. Helge  
Wayne M. Helge, Esq. (*pro hac vice*)  
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Facsimile: (703) 288-5139

Sworn to before me this 24<sup>th</sup> day of January, 2012.

Notary Public 10# 7034934

# EXHIBIT

**Wayne Helge**

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**From:** NYSD\_ECF\_Pool@nysd.uscourts.gov  
**Sent:** Wednesday, January 04, 2012 4:39 PM  
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**Subject:** Activity in Case 1:10-cv-04982-AKH Audiovox Communications Corp. v. Toshiba Corporation et al Amended Answer to Complaints

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**U.S. District Court**

**Southern District of New York**

**Notice of Electronic Filing**

The following transaction was entered by Helge, Wayne on 1/4/2012 at 4:38 PM EST and filed on 1/4/2012

**Case Name:** Audiovox Communications Corp. v. Toshiba Corporation et al

**Case Number:** 1:10-cv-04982-AKH

**Filer:** Pantech Co., Ltd.

**Document Number:** 34

**Docket Text:**

**AMENDED ANSWER to [14] Amended Complaint, with JURY DEMAND., COUNTERCLAIM against Audiovox Communications Corp.. Document filed by Pantech Co., Ltd.. (Helge, Wayne)**

**1:10-cv-04982-AKH Notice has been electronically mailed to:**

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**1:10-cv-04982-AKH Notice has been delivered by other means to:**

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